Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 174
"Student Abuse Reports and Investigations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 232E.2(6)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 232E

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 7, 2025 10 a.m.	Microsoft Teams Meeting ID: 259 285 819 643 8 Passcode: Do6b3vu7

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed rulemaking implements 2025 Iowa Acts, Senate File 659, division VI, which establishes new Iowa Code chapter 232E. This new Iowa Code chapter tasks the Department with the investigation of alleged cases of student abuse involving a public or nonpublic school employee.

All references to Iowa Code chapter 232E herein are to that chapter as enacted by 2025 Iowa Acts, Senate File 659.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The Department may impose and collect a reasonable reimbursement from public schools and nonpublic schools for the costs incurred by the Department in administering the student abuse reporting and investigation duties under Iowa Code chapter 232E and these proposed rules.

- **Classes of persons that will benefit from the proposed rulemaking:**

Students of public schools and nonpublic schools will benefit from the safeguards and protections outlined in these proposed rules.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Because this proposed rulemaking implements new legislation, there is no existing data.

- **Qualitative description of impact:**

These proposed rules create a uniform procedure for the reporting and investigation of allegations of student abuse by a public or nonpublic school employee. These proposed rules are limited to protecting children in prekindergarten and K-12 educational programs.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department may incur personnel and other administrative costs associated with administering this proposed chapter.

- **Anticipated effect on State revenues:**

This proposed rulemaking does not have an impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is required by Iowa Code section 232E.2(6).

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 441—Chapter 174:

CHAPTER 174
STUDENT ABUSE REPORTS AND INVESTIGATIONS

441—174.1(232E) Application—not exclusive.

174.1(1) Iowa Code chapter 232E applies only to reports of alleged student abuse received on or after July 1, 2025, and only if the report is made within three years from the date of the occurrence of the incident alleged in the report.

174.1(2) Iowa Code chapter 232E does not provide an exclusive process or remedy for addressing any abuse involving students and does not preclude or replace other available forms of reporting, investigation, or disciplinary action.

441—174.2(232E) Definitions.

"Board of educational examiners" means the same as defined in Iowa Code chapter 232E.

"Credible report" means a report of alleged student abuse that is deemed by the department to be both investigable and complete and is an accepted report for the purposes of an investigation under Iowa Code chapter 232E.

"Department policies and procedures" means the written guidelines formulated by the department to be used by department personnel involved in the reporting and investigation of allegations of student abuse.

"Disposition data and information," for the purposes of disclosure of such data and information to a school employee under paragraph 174.9(2)*"b"* and as specified under subrule 174.10(3), means materially relevant data and information pertaining to the department's determination that the allegation of student abuse is substantiated.

"Identifiable," relative to an allegedly abused student or to a school employee allegedly involved in an incident, means an individual who is not anonymous and who may be identified by specific factors, such as name, age, address, or birth date.

"Identifiable source," with reference to the reporter of an allegation of student abuse, means an individual who is not anonymous; who may be identified by specific factors, such as name, age, address, or birth date; and who is available to sign the written report of alleged student abuse.

"Incident" means an occurrence of behavior that meets the definition of student abuse.

"Inconclusive," with reference to a credible report of student abuse that has been referred to law enforcement, means that, because the joint investigation has not yet been concluded, there is not sufficient evidence to determine whether the incident occurred.

"Injury" means bodily injury for which evidence of the injury is still apparent at least 24 hours after an incident.

"Investigation" means the same as defined in Iowa Code chapter 232E.

"Investigation report data and information," for the purposes of disclosure of such data and information to a school employee under paragraph 174.9(2)*"b"* and as specified under subrule 174.10(3), means materially relevant data and information pertaining to an investigation of an allegation of student abuse based upon which the department determines the alleged student abuse is substantiated.

"Investigator" means personnel of the department to whom a credible report is assigned for investigation.

"Model policy" means the policy and procedures formulated by the department of education in consultation with the department to be used in the reporting and investigating of an allegation of student abuse under Iowa Code chapter 232E.

"Nonpublic school" means the same as defined in Iowa Code chapter 232E.

"Preponderance of the evidence" means reliable, credible evidence that is of greater weight than evidence offered in opposition to it.

"Public school" means the same as defined in Iowa Code chapter 232E.

"Public school district" means the same as defined in Iowa Code chapter 232E.

"Receipt of a report" or *"receipt of a credible report"* occurs on the date of the business day on which a credible report is initially assigned to an investigator.

"School employee" means the same as defined in Iowa Code chapter 232E.

"School time" means the hours of a regular school day as specified by the board of directors of a public school district or by the authorities in charge of a nonpublic school.

"Student" means the same as defined in Iowa Code chapter 232E.

"Student abuse" means the same as defined in Iowa Code chapter 232E.

"Substantiated," with reference to a credible report of student abuse, means that, based on the investigation, there is a preponderance of the evidence indicating the incident occurred.

"Unsubstantiated," with reference to a credible report of student abuse, means that, based on the investigation, there is not a preponderance of the evidence indicating the incident occurred.

441—174.3(232E) Child abuse intake process—report of alleged student abuse.

174.3(1) If, during the child abuse intake process under Iowa Code chapter 232, subchapter III, part 2, an identifiable source reports information that the department, in accordance with department policies and procedures, determines may constitute an allegation of student abuse, the identifiable source shall be referred to the student abuse intake process.

174.3(2) If, during the child abuse intake process under Iowa Code chapter 232, subchapter III, part 2, the department determines the information reported by an identifiable source does not constitute an allegation of student abuse subject to investigation by the department, the department shall reject the report and may inform the identifiable source of all the following:

a. The report is rejected and the basis for the rejection.

b. Iowa Code chapter 232E does not provide an exclusive remedy for the reporting of allegations of student abuse. Rejection of a report of alleged student abuse does not preclude other available forms of reporting, investigation, or disciplinary action.

c. Options remaining for the identifiable source to pursue may include:

(1) Contacting law enforcement.

(2) Contacting the county attorney.

(3) Contacting private counsel for the purpose of filing a civil suit or complaint.

(4) Filing a complaint with the board of directors of the public school district or the authorities in charge of the nonpublic school associated with the school employee allegedly involved in the incident or contacting the board of educational examiners, as applicable.

441—174.4(232E) Student abuse intake process—credible reports.

174.4(1) Following the referral of an identifiable source of a report of alleged student abuse to the student abuse intake process, the department will do all the following:

a. Assist the identifiable source in making a report of alleged student abuse. Reports shall be made in a manner similar to that specified in Iowa Code section 232.70 as adapted for application to student abuse reports in department policies and procedures.

b. Determine if the report of alleged student abuse is a credible report.

c. If the report of alleged student abuse is determined to be a credible report, refer the credible report to an investigator for investigation.

174.4(2) Credible reports. To be a credible report, a report of alleged student abuse must be deemed to be both investigable and complete by the department.

174.4(3) Investigable reports.

a. To be deemed investigable, a report of alleged student abuse must provide all the following details as specified in department policies and procedures:

(1) The person allegedly responsible for the act or omission is identifiable, was a school employee at the time of the alleged incident, and remains a school employee at the time the alleged abuse is reported.

(2) The alleged act or omission of the school employee is alleged to have occurred on school grounds during school time or on or at a school-related curricular or extracurricular activity.

(3) The alleged act or omission of the school employee resulted in injury or otherwise meets the definition of student abuse.

(4) The allegedly abused student is identifiable and is a student or was a student at the time of the alleged incident.

b. If the report of alleged student abuse is deemed not to be investigable, the report will be dismissed for lack of jurisdiction.

c. Not physical abuse.

(1) For the purposes of determining whether the alleged act or omission of a school employee constitutes physical abuse that meets the definition of student abuse under subparagraph 174.4(3)*"a"*(3), the following do not constitute physical abuse, and no school employee is prohibited from:

1. Using reasonable and necessary force, not designed or intended to cause pain:

- To quell a disturbance or prevent an act that threatens physical harm to any person.
- To obtain possession of a weapon or other dangerous object within a student's control.
- For the purposes of self-defense or defense of others as provided for in Iowa Code section 704.3.
- For the protection of property as provided for in Iowa Code section 704.4 or 704.5.
- To remove a disruptive student from class, any area of school premises or school-sponsored activities off school premises.
- To prevent a student from the self-infliction of harm.
- To protect the safety of others.

2. Using incidental, minor, or reasonable physical contact to maintain order and control.

(2) In determining the reasonableness of the contact or force used under subparagraph 174.4(3)*"c"*(1), the following factors will be considered:

1. The nature of the misconduct of the student, if any, precipitating the physical contact by the school employee.
2. The size and physical condition of the student.
3. The instrumentality used in making the physical contact.
4. The motivation of the school employee in initiating the physical contact.
5. The extent of injury to the student resulting from the physical contact.

174.4(4) Complete reports.

a. To be deemed complete, a report of alleged student abuse must meet all the following conditions as specified in department policies and procedures. The report must:

(1) Contain information regarding the identifiable source making the allegation of student abuse; the student allegedly abused; the school employee allegedly involved in the alleged incident; any witnesses to the alleged incident; and any person who examined, counseled, or treated the student for the alleged abuse.

(2) Include a concise statement of the facts surrounding the alleged incident, including the date, time, and place of occurrence, if known.

(3) Be reduced to writing, signed by the identifiable source, and witnessed by a person of majority age.

b. If a report of alleged student abuse is deemed incomplete by the department, the report will not be rejected unless either of the following conditions apply:

(1) The reporter of the alleged student abuse is not an identifiable source and does not sign the written report, and the report is not witnessed by a person of majority age.

(2) A reasonable person would conclude that the absence of the information missing from the report of alleged student abuse would render an investigation of the report futile or impossible.

441—174.5(232E) Options if report dismissed or rejected during student abuse intake. If the report of alleged student abuse is dismissed as not being investigable for lack of jurisdiction or rejected as incomplete, the department may inform the identifiable source of all the following:

174.5(1) The report is being dismissed or rejected and the basis for the dismissal or rejection.

174.5(2) Iowa Code chapter 232E does not provide the exclusive remedy for the reporting of allegations of student abuse. Dismissal or rejection of the report of alleged student abuse does not preclude other available forms of reporting, investigation, or disciplinary action.

174.5(3) Options remaining for the reporter of alleged abuse to pursue may include:

a. Contacting law enforcement.

b. Contacting the county attorney.

c. Contacting private counsel for the purpose of filing a civil suit or complaint.

d. Filing a complaint with the board of directors of the public school district or the authorities in charge of the nonpublic school associated with the school employee allegedly involved in the incident or contacting the board of educational examiners, as applicable.

441—174.6(232E) Notification of school authorities and identifiable source regarding credible reports. The department, in accordance with department policies and procedures, will notify all the following when a report of alleged student abuse is determined to be a credible report:

174.6(1) The board of directors of the public school district or the authorities in charge of the nonpublic school associated with the school employee allegedly involved in the incident and the board of educational examiners, as applicable. The department of education shall cooperate with the department in completing the required notifications under this paragraph and shall provide the department with access to school contact information through the Iowa education portal to ensure the accuracy of the notifications.

174.6(2) The identifiable source.

441—174.7(232E) Investigation—duties of an investigator and school authorities.

174.7(1) *Duties of an investigator.* An investigator will do all the following:

a. Commence an investigation within 24 hours of the receipt of a credible report.

b. Based on a credible report received, if an investigator determines the alleged student abuse constitutes a criminal act:

(1) Refer the matter to law enforcement, defer the department's investigation, and work jointly with law enforcement in law enforcement's investigation. The investigator may share with law enforcement information collected by the department during the joint investigation.

(2) If the investigation is deferred under this paragraph, resume the deferred investigation following completion of the joint investigation if the investigator determines information collected during the joint investigation warrants further investigation. The investigator will complete the resumed investigation within 30 business days of its commencement and will submit a written investigation report to the entities as specified under this rule upon the completion of the resumed investigation.

c. During the investigation:

(1) Interview the allegedly abused student, any witnesses or persons who may have knowledge of the circumstances contained in the credible report, and the school employee allegedly involved in the incident identified in the credible report.

(2) Conduct the interview of the allegedly abused student and any other student in a manner similar to that specified in Iowa Code section 232.71B(7), relating to child abuse assessment interviews conducted in facilities or schools as adapted for application to student abuse interviews in department policies and procedures.

(3) Provide notification to the parent or guardian of the allegedly abused student in a manner similar to that specified in Iowa Code section 232.71B(2), relating to the notification of parents regarding a child abuse assessment as adapted for application to student abuse investigations in department policies and procedures.

(4) Provide notification to the school employee allegedly involved in the incident in a manner similar to that specified in Iowa Code section 232.71B(4), relating to the notification of a person alleged to have committed child abuse as adapted for application to student abuse investigations in department policies and procedures.

d. Complete the investigation within 30 business days of the date of receipt of the credible report unless the investigation is deferred.

e. Include in the written investigation report the information specified in department policies and procedures. At a minimum, the written investigation report will include all of the following:

(1) A general overview of the investigation.

(2) If the matter was not referred to law enforcement and the department's investigation was not deferred, a statement that, in the investigator's opinion, the allegations in the credible report are either substantiated or unsubstantiated.

(3) If the matter was referred to law enforcement, the department's investigation was deferred, and the joint investigation has not been completed, a statement that the allegations in the credible report are inconclusive pending the results of the joint investigation.

(4) Any alternative status or disposition of the investigation.

(5) Any other information relevant to the investigation and the department's determination relating to the allegation of student abuse.

174.7(2) *Duties of school authorities.*

a. Granting access and immunity.

(1) The board of directors of a public school district or the authorities in charge of a nonpublic school shall cooperate with the investigator by providing confidential access to the allegedly abused student named in the credible report for the purpose of interviewing the student and shall allow the investigator confidential access to other students for the purpose of conducting interviews to obtain relevant information.

(2) The immunity granted by Iowa Code section 232.73 applies to participation in good faith by boards of directors of a public school district and the authorities in charge of nonpublic schools, the facilities of a public school or nonpublic school, and public school districts in an investigation and when providing confidential access to a student.

b. The board of directors of a public school district or the authorities in charge of a nonpublic school shall provide an investigator access to an allegedly abused student's education records pursuant to 34 CFR §99.31 as amended to August 1, 2025.

441—174.8(232E) School employee resignation during pendency of investigation. Following a determination by the department that a report of alleged student abuse is a credible report, the department will complete the investigation of the credible report in accordance with rule 441—174.7(232E), whether the school employee allegedly involved in the incident resigns any time prior to or at the time of the submission of the written investigation report.

441—174.9(232E) Substantiated report—right of school employee to contested case proceedings and further review.

174.9(1) At the time the written investigation report is submitted to the board of directors of the public school district, the authorities in charge of the nonpublic school, or the board of educational examiners, as applicable, under paragraph 174.7(1)*"e,"* the department will provide notice of the department's determination regarding the allegation of student abuse to the school employee who is the subject of the investigation pursuant to 441—Chapter 16.

174.9(2) If the notice of determination includes a statement that the allegation of student abuse is substantiated, the notice of determination will also inform the school employee who is the subject of the investigation of:

a. The school employee's right to contested case proceedings and further review pursuant to 441—Chapter 7; and

b. The right and process to request additional investigation report data and information and disposition data and information as specified in department policies and procedures.

174.9(3) The department will notify the board of directors of the public school district, the authorities in charge of the nonpublic school, or the board of educational examiners, as applicable, of the following:

a. If the school employee requests contested case proceedings under 441—Chapter 7.

b. The proposed decision of the contested case.

c. If the school employee requests director's review pursuant to rule 441—7.11(17A).

d. The final decision of the contested case.

174.9(4) Any disciplinary, employment, or other action that may be taken in response to an investigation report by the directors of a public school district, the authorities in charge of a nonpublic school, or the board of educational examiners, as applicable, is stayed during the pendency of the proceedings under subrule 174.9(2).

441—174.10(232E) Case record retention—protection of identifiable source—disclosure limitations.

174.10(1) The department will retain the case record, including the intake report, the written investigation report, and all related supporting documentation, for three years from the date the written investigation report is submitted pursuant to paragraph 174.7(1)*"e"* to the director of the public school district, the authorities in charge of the nonpublic school, or the board of educational examiners, as applicable.

174.10(2) The name and identity of the identifiable source of a report of alleged student abuse will not be disclosed with the following exceptions:

a. To department personnel and law enforcement involved in, and as necessary to perform official duties related to, the reporting and investigation of a specific allegation of student abuse.

b. To the board of educational examiners if the allegation of student abuse involves a school employee who is licensed, certified, or authorized by the board of educational examiners, or who holds an active statement of recognition issued by the board of educational examiners, as necessary to perform official duties related to the specific allegation of student abuse.

c. To other persons for good cause as determined by the department based on criteria specified in department policies and procedures.

174.10(3) Student abuse information.

a. Student abuse information is confidential and shall not be a public record under Iowa Code chapter 22. The confidentiality of all student abuse information will be maintained, except as specifically provided in these rules and department policies and procedures.

b. Student abuse information may be shared with department personnel as necessary to perform official duties.

c. With the exception of the name and identity of the identifiable source, the disclosure of which is subject to subrule 174.10(2), any investigation report data and information and disposition data and information, as specified by department policies and procedures, may be disclosed, upon request, only to the following:

(1) The student named in the report of student abuse as the victim or the student's attorney or guardian ad litem.

(2) The parent or guardian or the attorney for the parent or guardian of the student named in the report of student abuse as the victim.

(3) A person or the attorney for the person named in a report as having abused the student.

(4) Law enforcement involved in the investigation of the report of student abuse.

(5) The board of directors of the public school district, the authorities in charge of the nonpublic school, or the board of educational examiners, as applicable, that received the written investigation report.

(6) The county attorney.

(7) The administrative law judge or court involved in a contested case proceeding or further review upon a finding that the information is necessary for the resolution of an issue arising in any phase of a case involving a determination of a substantiated allegation of student abuse.

441—174.11(232E) Substantial compliance. Because investigative procedures seldom allow for rigid observance of the protocol, substantial compliance with these rules is required with the overriding goal of reaching a fair and unbiased resolution of a report of alleged student abuse.

441—174.12(232E) Costs of student abuse reporting and investigations. The department may impose and collect a reasonable reimbursement from public schools and nonpublic schools for the costs incurred by the department in administering the student abuse reporting and investigation duties under Iowa Code chapter 232E and these rules.

These rules are intended to implement Iowa Code chapter 232E.